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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------------------|------------------|
| 10/649,492 | 08/27/2003 | Chris Bender | FORE-104 | 5890 |
| Ansel M. Schwartz Suite 304 201 N. Graig Street Pittsburgh, PA 15213 | | | EXAMINER GREY, CHRISTOPHER P | |
| | | | ART UNIT 2616 | PAPER NUMBER |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 03/30/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|---------------------|---------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/649,492 | BENDER ET AL. | |
| | Examiner | Art Unit | |
| | Christopher P. Grey | 2616 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-8 and 10 is/are rejected.
- 7) ☒ Claim(s) 4, 5 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because they are hand written.
Appropriate correction is required.

Claim Objections

2. Claims 3, 4, 8 and 9 are objected to because of the following informalities: The claims use the abbreviation OAM without defining the term in the claim or any of the preceding claims.

Claim 5 is objected to because of the following informalities: The claims use the abbreviation ATM SPVX without defining the term in the claim or any of the preceding claims.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3,6-8,10 are rejected under 35 U.S.C. 102(e) as being anticipated by Klink (US 20050147050)

Claim 1, 6, 10 Klink discloses a first node and second node (**fig 2 TLN 1 and TLN 2 respectively**).

Klink discloses at least one intermediate node in communication with the first node and the second node (**fig 2, N1-N4 are equivalent to intermediate nodes**), the first node repeatedly (**para 0034, connectivity is checked repeatedly every time an MPLS network is brought into service or every time a complaint is made**) sending signaling (**para 0041, process can be achieved in that signaling methods are used**) through the intermediate node to the second node (**para 0032, OAM-ECHO packet sent in the source and para 0036**) and receiving the signaling back (**para 0039, feedback**) to establish and maintain a connection between the first node, second node and intermediate node (**para 0034, checks connectivity of path**).

Klink discloses means for dynamically placing connection points along the path through which the connection is established (**para 0037, location ID is inserted into**

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OAM ECHO packet, where the location ID contains the assigned connection point) each time after signaling from the first node to the second node returns to the first node (para 0039, copied OAM-ECHO packet, containing assigned connection point/s is sent back to source).

Claim 2, 7 Klink discloses wherein the placing means also created fault management and performance monitoring conditions in the first, second and intermediate nodes (para 0030, where Klink discloses OAM packets being inserted into the flow for performance monitoring, where the OAM packets are processed at each of the nodes in the connection path. Furthermore, the use of OAM packets inherently implies the functions of fault indication, performance information and diagnosis and data information).

Claim 3, 8 Klink discloses wherein the placing means includes an OAM path matrix disposed at each node which identifies the connection points and the fault management and performance monitoring conditions (para 0036-0037, where a matrix by definition is the place or point from which something else originates. Para's 0036-0037 discloses at each node in the connection path, OAM packet processing , where a copy of an OAM-ECHO packet is originated. The assigned connection point is inserted into the copied OAM ECHO packet. See the rejection of claim 2 for fault management and performance monitoring) .

Allowable Subject Matter

4. Claims 4-^{D2}~~5~~ and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

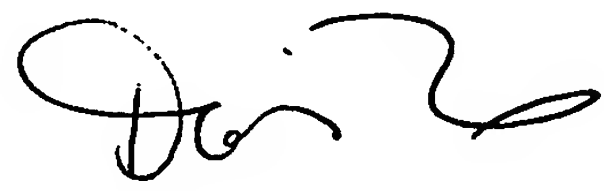
5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P. Grey whose telephone number is (571)272-3160. The examiner can normally be reached on 10AM-7:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on (571)272-7629. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Christopher Grey
Examiner
Art Unit 2616

C. Grey
3/25/07


DORIS H. TO
SUPERVISORY PATENT EXAMINER
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